

109TH CONGRESS  
2D SESSION

# H. R. 5565

To enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2006

Ms. HERSETH introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Oglala Sioux Tribe  
5       Angostura Irrigation Project Modernization and Develop-  
6       ment Act”.

7       **SEC. 2. FINDINGS.**

8       Congress finds as follows:

9               (1) Congress approved the Pick-Sloan Missouri  
10       River Basin Program by passing the Act of Decem-

1       ber 22, 1944 (commonly known as the “Flood Con-  
2       trol Act of 1944”) (33 U.S.C. 701–1 et seq.)—

3               (A) to promote the economic development  
4       of the United States;

5               (B) to provide for irrigation in regions  
6       north of Sioux City, Iowa;

7               (C) to protect urban and rural areas from  
8       devastating floods of the Missouri River; and

9               (D) for other purposes.

10       (2) The Angostura Unit—

11              (A) is a component of the Pick-Sloan pro-  
12       gram; and

13              (B) provides for—

14                      (i) irrigation of approximately 12,218  
15       acres of productive farm land in South Da-  
16       kota; and

17                      (ii) substantial recreation and fish  
18       and wildlife benefits.

19       (3) The Commissioner of Reclamation has de-  
20       termined that—

21              (A) the national economic development  
22       benefits from irrigation at the Angostura Unit  
23       total approximately \$3,410,000 annually; and

1 (B) the national economic development  
2 benefits of recreation at Angostura Reservoir  
3 total approximately \$7,100,000 annually.

4 (4) The Angostura Unit impounds the Chey-  
5 enne River 20 miles upstream of the Pine Ridge In-  
6 dian Reservation in South Dakota.

7 (5) The Reservation experiences extremely high  
8 rates of unemployment and poverty.

9 (6) There is a need for economic development  
10 on the Reservation.

11 (7) The national economic development benefits  
12 of the Angostura Unit do not extend to the Reserva-  
13 tion.

14 (8) The Angostura Unit may be associated with  
15 negative effects on water quality and riparian vege-  
16 tation in the Cheyenne River on the Reservation.

17 (9) Modernization of the irrigation facilities at  
18 the Angostura Unit would—

19 (A) enhance the national economic develop-  
20 ment benefits of the Angostura Unit; and

21 (B) result in improved water efficiency and  
22 environmental restoration benefits on the Res-  
23 ervation.

24 (10) The establishment of a trust fund for the  
25 Oglala Sioux tribe would—

1 (A) produce economic development benefits  
2 for the Reservation comparable to the benefits  
3 produced at the Angostura Unit; and

4 (B) provide resources that are necessary  
5 for restoration of the Cheyenne River corridor  
6 on the Reservation.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) **ANGOSTURA UNIT.**—The term “Angostura  
10 Unit” means the irrigation unit of the Angostura ir-  
11 rigation project developed under the Act of August  
12 11, 1939 (16 U.S.C. 590y et seq.).

13 (2) **FUND.**—The term “Fund” means the Og-  
14 lala Sioux Tribal Development Trust Fund estab-  
15 lished by section 201(a).

16 (3) **PICK-SLOAN PROGRAM.**—The term “Pick-  
17 Sloan program” means the Pick-Sloan Missouri  
18 River basin program approved under the Act of De-  
19 cember 22, 1944 (commonly known as the “Flood  
20 Control Act of 1944”; 33 U.S.C. 701–1 et seq.).

21 (4) **PLAN.**—The term “plan” means the devel-  
22 opment plan developed by the Tribe under section  
23 201(f).

24 (5) **RESERVATION.**—The term “Reservation”  
25 means the Pine Ridge Indian Reservation.

1           (6) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (7) TRIBE.—The term “Tribe” means the Og-  
4           lala Sioux Tribe of the Pine Ridge Indian Reserva-  
5           tion.

6           (8) TRIBAL COUNCIL.—The term “Tribal Coun-  
7           cil” means the governing body of the Tribe.

8   **SEC. 4. MODERNIZATION.**

9           (a) MODERNIZATION OF FACILITIES AT ANGOSTURA  
10          UNIT.—

11           (1) IN GENERAL.—The Secretary shall carry  
12           out the modernization and improvement of the facili-  
13           ties at the Angostura Unit as described in the Im-  
14           proved Efficiencies Alternative included in the report  
15           titled “Final Environmental Impact Statement, An-  
16           gostura Unit Contract Negotiation and Water Man-  
17           agement (August 2002)”.

18           (2) NONREIMBURSABILITY.—The cost of the  
19           modernization and improvement of the facilities at  
20           the Angostura Unit shall be carried out on a non-  
21           reimbursable basis.

22           (b) DELIVERY OF WATER TO PINE RIDGE INDIAN  
23          RESERVATION.—The Secretary shall provide for the deliv-  
24          ery of the water saved through the modernization and im-  
25          provement of the facilities of the Angostura Unit as an

1 instream flow of the Cheyenne River to be used for fish  
 2 and wildlife purposes and environmental restoration on the  
 3 Reservation.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
 5 authorized to be appropriated to carry out subsection (a)  
 6 \$4,660,000, to remain available until expended.

7 **SEC. 5. DEVELOPMENT.**

8 (a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST  
 9 FUND.—

10 (1) OGLALA SIOUX TRIBAL DEVELOPMENT  
 11 TRUST FUND.—There is established in the Treasury  
 12 of the United States a fund to be known as the “Og-  
 13 lala Sioux Tribal Development Trust Fund,” con-  
 14 sisting of any amounts deposited in the Fund under  
 15 this Act.

16 (2) FUNDING.—Not later than the first day of  
 17 the 11th fiscal year that begins after the date of en-  
 18 actment of this Act, the Secretary of the Treasury  
 19 shall, from the General Fund of the Treasury, de-  
 20 posit in the Fund \$92,500,000.

21 (3) INVESTMENT OF TRUST FUND.—

22 (A) IN GENERAL.—The Secretary of the  
 23 Treasury shall invest such portion of the Fund  
 24 as is not, in the judgment of the Secretary of

1 the Treasury, required to meet current with-  
2 draws.

3 (B) ELIGIBLE OBLIGATIONS.—Notwith-  
4 standing any other provision of law, the Sec-  
5 retary of the Treasury shall invest the amounts  
6 deposited under paragraph (2) and the interest  
7 earned on those amounts only in interest-bear-  
8 ing obligations of the United States issued di-  
9 rectly to the Fund.

10 (C) INTEREST.—The Secretary of the  
11 Treasury shall deposit interest resulting from  
12 such investments into the Fund.

13 (4) PAYMENT OF INTEREST TO TRIBE.—

14 (A) WITHDRAWAL OF INTEREST.—On Oc-  
15 tober 1st of each year, the Secretary of the  
16 Treasury shall transfer the aggregate amount  
17 of interest deposited into the Fund for the fis-  
18 cal year to the Secretary for use in accordance  
19 with subparagraph (C).

20 (B) AVAILABILITY.—Each amount trans-  
21 ferred under subparagraph (A) shall be avail-  
22 able without fiscal year limitation.

23 (C) PAYMENTS TO TRIBE.—

24 (i) IN GENERAL.—The Secretary of  
25 the Interior shall use the amounts trans-

ferred under subparagraph (A) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

(ii) LIMITATION.—Payments may be made by the Secretary of the Interior under clause (i) only after the Tribe has adopted a plan under paragraph (6).

(iii) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under this subparagraph only for carrying out projects and programs under the plan prepared under paragraph (6).

(5) LIMITATION ON TRANSFERS AND WITHDRAWALS.—Except as provided in paragraphs (3) and (4)(A), the Secretary of the Treasury shall not transfer or withdraw any amount deposited under paragraph (2).

(6) DEVELOPMENT PLAN.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under paragraph (4).



1 (B) CONTENTS.—The plan shall provide  
2 for the manner in which the Tribe shall expend  
3 payments to the Tribe under paragraph (4) to  
4 promote—

5 (i) economic development;

6 (ii) infrastructure development;

7 (iii) the educational, health, rec-  
8 reational, and social welfare objectives of  
9 the Tribe and members of the Tribe; or

10 (iv) any combination of the activities  
11 described in subparagraphs (A) through  
12 (C).

13 (C) PLAN REVIEW AND REVISION.—

14 (i) IN GENERAL.—The Tribal Council  
15 shall make available for review and com-  
16 ment by the members of the Tribe a copy  
17 of the plan before the plan becomes final,  
18 in accordance with procedures established  
19 by the Tribal Council.

20 (ii) UPDATING OF PLAN.—

21 (I) IN GENERAL.—The Tribal  
22 Council may, on an annual basis, re-  
23 vise the plan.

24 (II) REVIEW AND COMMENT.—In  
25 revising the plan, the Tribal Council

1 shall provide the members of the  
2 Tribe opportunity to review and com-  
3 ment on any proposed revision to the  
4 plan.

5 (iii) CONSULTATION.—In preparing  
6 the plan and any revisions to the plan, the  
7 Tribal Council shall consult with the Sec-  
8 retary and the Secretary of Health and  
9 Human Services.

10 (D) AUDIT.—

11 (i) IN GENERAL.—The activities of  
12 the Tribe in carrying out the plan shall be  
13 audited as part of the annual single-agency  
14 audit that the Tribe is required to prepare  
15 pursuant to the Office of Management and  
16 Budget circular numbered A–133.

17 (ii) DETERMINATION BY AUDITORS.—  
18 The auditors that conduct the audit con-  
19 ducted pursuant to this subparagraph  
20 shall—

21 (I) determine whether funds re-  
22 ceived by the Tribe under this section  
23 for the period covered by the audit  
24 conducted pursuant to this subpara-  
25 graph were expended to carry out the

1 plan in a manner consistent with this  
2 section; and

3 (II) include in the written find-  
4 ings of the audit the determination  
5 made under clause (i).

6 (iii) INCLUSION OF FINDINGS WITH  
7 PUBLICATION OF PROCEEDINGS OF TRIBAL  
8 COUNCIL.—A copy of the written findings  
9 of the audit conducted pursuant to this  
10 subparagraph shall be inserted in the pub-  
11 lished minutes of the Tribal Council pro-  
12 ceedings for the session at which the audit  
13 is presented to the Tribal Council.

14 (7) PROHIBITION OF PER CAPITA PAYMENTS.—  
15 No portion of any payment made under this Act  
16 may be distributed to any member of the Tribe on  
17 a per capita basis.

18 (b) ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS  
19 AND SERVICES.—No payment made to the Tribe under  
20 this Act shall result in the reduction or denial of any serv-  
21 ice or program with respect to which, under Federal law—

22 (1) the Tribe is otherwise entitled because of  
23 the status of the Tribe as a federally recognized In-  
24 dian tribe; or

1           (2) any individual who is a member of the Tribe  
2           is entitled because of the status of the individual as  
3           a member of the Tribe.

4           (c) AUTHORIZATION OF APPROPRIATIONS.—There  
5           are authorized to be appropriated such sums as are nec-  
6           essary to pay the administrative expenses of the Fund.

7           (d) DISCLAIMER OF EFFECTS.—Nothing in this Act  
8           affects—

9           (1) the rights or claims of the Tribe under the  
10          Treaty of Fort Laramie of September 15, 1851 (11  
11          Stat. 749);

12          (2) the rights or claims of the Tribe under the  
13          Treaty of Fort Laramie of April 29, 1868 (15 Stat.  
14          635); or

15          (3) the reserved water rights of the Tribe under  
16          the principles of *Winters v. United States* (207 U.S.  
17          564 (1908)).

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